

-16-

REMARKS

In response to the Office Action mailed December 12, 2007, Applicants respectfully request reconsideration. To further the prosecution of this Application, Applicants submit the following remarks, have canceled a claim, and have added new claims. The claims as now presented are believed to be in allowable condition.

Claims 2-85 were pending in this Application. By this Amendment, claim 15 has been canceled. Applicants expressly reserve the right to prosecute the canceled claim and similar claims in one or more related Applications. Claims 86-87 have been added. Accordingly, claims 2-14 and 16-87 are now pending in this Application. Claims 2, 26, 43, 57, 73, and 83-85 are independent claims.

Drawings

Applicants respectfully point out that the Drawings filed in the Application have not been acknowledged by the Office as acceptable or not. Applicants respectfully request that the next Office communication indicate that the Drawings are acceptable.

Preliminary Matters

Minor typographical amendments have been made to claims 5, 11, 13, 24, and 76 to correct mistaken claim dependencies. No new matter has been added, and no new search is required.

Rejections under §112

Claims 2 and 73 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the

-17-

subject matter which applicant regards as the invention. Applicant has amended claims 2 and 73 by clarifying the language with a limitation previously found in canceled claim 15. The amendment to claim 2 necessitated minor amendments to dependent claims 6-7, 14, and 16. No new matter has been added, and no new search is required.

Rejections under §103

Claims 2-72 were rejected under 35 U.S.C. §103(a) as being unpatentable over Secure Computing Corporation: "Authentication Reference Guide" (Publication date: September 4, 2002¹) (Pages 1-18, XP002283680) (hereinafter referred to as Secure Computing) in view of U.S. Patent No. 7,024,698 (Tanaka, *et al.*). Claims 73-85 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,091,835 (Smithies, *et al.*) in view of Tanaka.

Applicants respectfully traverse each of these rejections and request reconsideration. The claims are in allowable condition.

Secure Computing teaches various secure authentication methods. In particular, it teaches event-synchronous authentication using a password authenticator or token (Pages 11-12). It also teaches time-synchronous authentication using a password authenticator or token (Pages 12-13). It also teaches asynchronous (challenge-response) authentication using a password authenticator or token (Pages 14-15).

Tanaka teaches transmitting important data wirelessly (and then deleting) from a portable information-processing device to a preappointed device when the device is stolen (Col. 1, lines 29-42).

¹ As previously mentioned, although the Examiner has cited the publication date of this reference as "April 9, 2002," Applicants believe that this is incorrect. The front page of the document states "September 2002," and the bottom of each subsequent page shows "09/04/02." Therefore, Applicants respectfully submit that the publication date of this document is September 4, 2002.

Smithies teaches a method and system for transcribing electronic affirmations (Abstract).

Claims 26-42, 5, 11, 13, and 86-87

Claim 26 amended, recites a method of generating an identity authentication code associated with an authentication device. The method includes providing event state data that is a security indicator for an authentication system of which the authentication device is a component, and generating an identity authentication code that depends on (i) the event state data, and (ii) a secret associated with the device.

The cited references do not teach or suggest, either alone or in combination, a method, which includes *generating an identity authentication code that depends on (i) the event state data (that is a security indicator), and (ii) a secret associated with the device*. Rather, Secure Computing discloses a method of authentication using password authenticators or tokens (Page 11). Secure Computing does teach using a token to generate a dynamic password at the push of a button or periodically or upon entry of a challenge, with, in some cases, the addition of a PIN entry (Pages 11-12, 14). However, the dynamic password is not an identity authentication code *that depends on (i) the event state data and (ii) a secret associated with the device*. The Office Action, on Page 5, cites pages 11-12 and 14-16 (specifically “response”) of Secure Computing as teaching this feature. However, Applicants are unable to determine how the cited portion teaches this feature. Although pushing a button on a token causes a dynamic password to be displayed (Page 11 at A.1), such pushing is not *event state data*, nor is it a *security indicator*. Furthermore, there is no indication in Secure Computing that the value of the dynamic password is at all affected by the pushing of the button.

Furthermore, the “response” of pages 14-15 bears no relationship to either the *event state data*, nor to a *security indicator*. Secure Computing teaches that the “response” is a result of the authenticator operating on a random number challenge from a system (Page 14 at 1.B.2-3). Secure Computing does not teach or suggest that this “response” has any relationship to any *event state data* or *security indicator*. If the rejection of claim 26 is to be maintained, Applicant respectfully requests that it be pointed out with particularity where the cited prior art teaches *generating an identity authentication code that depends on (i) the event state data (that is a security indicator), and (ii) a secret associated with the device*.

The Office Action, on pages 5-6, notes that Secure Computing does not teach *providing event state data that is a security indicator* for an authentication system of which the authentication device is a component. Due to that fact, the Office Action cites Tanaka at Col. 7, lines 5-10, Col. 3, lines 39-50, Col. 4, lines 5-8, and reference characters 302-308, 702, and 708 as teaching this feature. The Office Action, on page 7, further states that it would have been obvious to a PHOSITA to combine Tanaka with Secure Computing. However, Tanaka and Secure Computing are entirely unrelated, and the Office Action provides no explanation as to why a person having ordinary skill in the art at the time of the invention would have thought to combine the references. Indeed, “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” 82 U.S.P.Q.2d 1385, 1396 (S. Ct. 2007) (citing 8 U.S.P.Q.2d 1329, 1336 (Fed. Cir. 2006)). Federal Register Vol. 72, No. 195, Wednesday, October 10, 2007 provides guidelines for the Patent Office to follow in obviousness rejections, at pages 57529-57534. However, the Office Action has not provided any explanation why it would be obvious to combine the references. Among other things, the Office Action has not set forth the scope and content of the prior art, nor has the Patent Office satisfied the elements of any of

the seven categories of obviousness set forth in the cited portion of the Federal Register. Thus, the Patent Office has not satisfied its burden by establishing a *prima facie* case of obviousness. Furthermore, it is quite clear that Tanaka and Secure Computing are unrelated. Indeed, Secure Computing concerns authentication techniques, while Tanaka is about deleting and transmitting data that has already been stolen. There is no reason to suspect that a person having ordinary skill in the art of authentication would even think to look at a publication or patent concerning deleting and transmitting data that has already been stolen. Thus, it would not be obvious to combine Tanaka with Secure Computing.

Furthermore, Applicants respectfully point out that the traversal of claims 26-42, 5, 11, 13, and 86-87 presented in Applicants' Amendment dated August 22, 2007 was never addressed by the current Office Action. "Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." MPEP 707.07(f).

For the reasons stated above, claim 26 patentably distinguishes over the cited prior art, and the rejection of claim 26 under 35 U.S.C. §103(a) should be withdrawn. Accordingly, claim 26 is now in allowable condition.

Because claims 27-42, 5, 11, 13, and 86-87 depend from and further limit claim 26, claims 27-42, 5, 11, 13, and 86-87 are in allowable condition for at least the same reasons. Additionally, it should be understood that the dependent claims recite additional features which further patentably distinguish over the cited prior art.

Claims 2-4, 6-10, 12, and 14-25

Claim 2, (which has been amended to incorporate limitations previously found in canceled dependent claim 15), teaches all the limitations of claim 26, except that instead of teaching "providing event state data that is a security

indicator for an authentication system of which the authentication device is a component,” claim 2 teaches “providing event state data that specifies an operating condition of the authentication device, the operating condition specifying information on the likelihood that the authentication device has or will develop an operational problem.” Claim 2 also recites additional limitations.

Because claim 2 recites limitations similar to those found in claim 26, claim 2 is patentable for reasons similar to those discussed above (namely, that it would not have been obvious to combine Tanaka with Secure Computing, and that Secure Computing does not teach *generating an identity authentication code that depends on (i) the event state data and (ii) a secret associated with the device*).

In addition, claim 2, as currently amended, teaches *providing event state data that specifies an operating condition* of the authentication device, the operating condition *specifying information on the likelihood that the authentication device has or will develop an operational problem*. This feature is not taught or suggested by the prior art. The Office Action, on pages 9-10, cites page 15 of Secure Computing, explaining that the authenticators there presented must run on battery, and batteries inherently can fall below an expected power level. However, the cited portion does not indicate that the authenticators run on battery. In any event, just because the batteries may fall below an expected power level does not mean that the authenticators of Secure Computing *provide event state data that specifies an operating condition*, the operating condition *specifying information on the likelihood that the authentication device has or will develop an operational problem*. If the rejection of claim 2 is to be maintained, Applicant respectfully requests that it be pointed out with particularity where the cited prior art teaches *providing event state data that specifies an operating condition* of the authentication device, the operating condition *specifying information on the likelihood that the authentication device has or will develop an operational problem*.

Furthermore, Applicants respectfully point out that the traversal of claims 2-4, 6-10, 12, 14, and 16-25 presented in Applicants' Amendment dated August 22, 2007 was never addressed by the current Office Action. "Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." MPEP 707.07(f).

For the reasons stated above, claim 2 patentably distinguishes over the cited prior art, and the rejection of claim 2 under 35 U.S.C. §103(a) should be withdrawn. Accordingly, claim 2 is now in allowable condition.

Because claims 3-4, 6-10, 12, 14, and 16-25 depend from and further limit claim 2, claims 3-4, 6-10, 12, 14, and 16-25 are in allowable condition for at least the same reasons. Additionally, it should be understood that the dependent claims recite additional features which further patentably distinguish over the cited prior art.

Claims 43-56

Claim 43 teaches all the limitations of claim 26, except that instead of teaching "providing event state data that is a security indicator for an authentication system of which the authentication device is a component," claim 43 teaches "providing event state data that specifies information about a user of the authentication device."

Because claim 43 recites limitations similar to those found in claim 26, claim 43 is patentable for reasons similar to those discussed above (namely, that it would not have been obvious to combine Tanaka with Secure Computing, and that Secure Computing does not teach *generating an identity authentication code that depends on (i) the event state data and (ii) a secret associated with the device*).

Furthermore, the Office Action, on pages 5-6, explicitly concedes that Secure Computing “does not explicitly disclose . . . providing event state data that specifies information about the user of the authentication device” However, the Office Action fails to mention how any other reference teaches that feature. Thus, the Office Action has failed to meet its burden of fully explaining the rejection of claim 43.

Furthermore, Applicants respectfully point out that the traversal of claims 43-56 presented in Applicants’ Amendment dated August 22, 2007 was never addressed by the current Office Action. “Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.” MPEP 707.07(f).

For the reasons stated above, claim 43 patentably distinguishes over the cited prior art, and the rejection of claim 43 under 35 U.S.C. §103(a) should be withdrawn. Accordingly, claim 43 is now in allowable condition.

Because claims 44-56 depend from and further limit claim 43, claims 44-56 are in allowable condition for at least the same reasons. Additionally, it should be understood that the dependent claims recite additional features which further patentably distinguish over the cited prior art.

Claims 57-72

Claim 57 teaches all the limitations of claim 26, except that instead of teaching “providing event state data that is a security indicator for an authentication system of which the authentication device is a component,” claim 57 teaches “providing event state data that specifies information about environmental conditions associated with the authentication device.”

Because claim 57 recites limitations similar to those found in claim 26, claim 57 is patentable for reasons similar to those discussed above (namely, that it would not have been obvious to combine Tanaka with Secure Computing, and

that Secure Computing does not teach *generating an identity authentication code that depends on (i) the event state data and (ii) a secret associated with the device*).

Furthermore, the Office Action, on pages 5-6, explicitly concedes that Secure Computing “does not explicitly disclose . . . providing event state data that specifies information . . . about environmental conditions associated with the authentication device.” However, the Office Action fails to mention how any other reference teaches that feature. Thus, the Office Action has failed to meet its burden of fully explaining the rejection of claim 57.

Furthermore, Applicants respectfully point out that the traversal of claims 57-72 presented in Applicants’ Amendment dated August 22, 2007 was never addressed by the current Office Action. “Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.” MPEP 707.07(f).

For the reasons stated above, claim 57 patentably distinguishes over the cited prior art, and the rejection of claim 57 under 35 U.S.C. §103(a) should be withdrawn. Accordingly, claim 57 is now in allowable condition.

Because claims 58-72 depend from and further limit claim 57, claims 48-72 are in allowable condition for at least the same reasons. Additionally, it should be understood that the dependent claims recite additional features which further patentably distinguish over the cited prior art.

Claims 73-85

Claims 73 and 83-85 teach limitations similar to those found in claims 2, 26, 43, and 57, respectively.

Because 73 and 83-85 teach limitations similar to those found in claims 2, 26, 43, and 57, claims 73 and 83-85 are patentable for reasons similar to those

discussed above, because Smithies does not teach or suggest an identity authentication code dependent on information about event state data, as required by claims 73-83.

Furthermore, Applicants respectfully point out that the traversal of claims 73-85 presented in Applicants' Amendment dated August 22, 2007 was never addressed by the current Office Action. "Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." MPEP 707.07(f).

For the reasons stated above, claims 73 and 83-85 patentably distinguish over the cited prior art, and the rejection of claims 73 and 83-85 under 35 U.S.C. §103(a) should be withdrawn. Accordingly, claims 73 and 83-85 are now in allowable condition.

Because claims 74-75 and 77-82 depend from and further limit claim 73, claims 74-75 and 77-82 are in allowable condition for at least the same reasons. Additionally, it should be understood that the dependent claims recite additional features which further patentably distinguish over the cited prior art.

Because claim 76 depends from and further limit claim 83, claim 76 is in allowable condition for at least the same reasons. Additionally, it should be understood that the dependent claim recites additional features which further patentably distinguish over the cited prior art.

Newly Added Claims

Claims 86-87 have been added and are believed to be in allowable condition. Claim 86 depends from claim 5. Claim 87 depends from claim 30. Support for claim 86 is provided within the Specification, for example, in paragraphs [0071] and [0083]. Support for claim 87 is provided within the Specification, for example, in paragraph [0051]. No new matter has been added.

Conclusion

In view of the foregoing remarks, this Application should be in condition for allowance. A Notice to this affect is respectfully requested. If the Examiner believes, after this Amendment, that the Application is not in condition for allowance, the Examiner is respectfully requested to call the Applicants' Representative at the number below.

Applicants hereby petition for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this Amendment, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-3661.

-27-

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 616-2900, in Westborough, Massachusetts.

Respectfully submitted,

/Michael Ari Behar/

M. Ari Behar, Esq.
Attorney for Applicants
Registration No.: 58,203
Bainwood, Huang & Associates, L.L.C.
Highpoint Center
2 Connector Road
Westborough, Massachusetts 01581
Telephone: (508) 616-2900
Facsimile: (508) 366-4688

Attorney Docket No.: 1048-008

Dated: March 12, 2008